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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-seventh session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child

Bhutan

1. At its 715th and 716th meetings (CRC/C/SR. 715 and 716), held on 5 June 2001, the Committee on the Rights of the Child considered the initial report of Bhutan (CRC/C/3/Add.60), which was received on 20 April 1999, and adopted at the 721st meeting, held on 8 June 2001, the following concluding observations.

A. Introduction

2. The Committee notes that the initial State party report was prepared according to the Committee's guidelines for reporting. It notes the timely submission of the informative written answers. The Committee further notes with appreciation the presence of a high-level and cross-sectoral delegation, which contributed to a frank and open dialogue.

B. Positive aspects

3. The Committee notes that the consideration of the initial report of Bhutan marked the first occasion that the State party had appeared before a human rights treaty body.

4. The Committee welcomes the progress made at the Joint Verification Talks and the commencement of the verification process of the refugees in Nepal. It further welcomes the undertaking made by the head of the State party's delegation to convey to the Government the Committee's concerns on the need to accelerate the process.

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5. The Committee welcomes the incorporation in the State party's development plans of the goals contained in the World Declaration and Plan of Action of the 1990 World Summit for Children.

6. The Committee welcomes the establishment of the Department of Legal Affairs, which is an important step in consolidating the rule of law in the State party.

7. The Committee welcomes the establishment of the Youth Development Fund and the Health Trust Fund.

8. The Committee appreciates the cooperation of the State party with United Nations agencies and other international organizations, such as in the formulation and signing of a Master Plan of Operations in cooperation with UNICEF.

9. The Committee welcomes the child-focused and holistic approach taken by the State party in formulating policies and programmes relating to aspects of the Convention (e.g. multisectoral strategies such as the Comprehensive School Health Programme, involving the education and health sectors).

C. Factors and difficulties impeding the implementation of the Convention

10. The Committee acknowledges that difficult topography (i.e. difficult mountainous terrain); the relatively recent socio-economic development, the pressures posed by high population growth on the provision of social services and the shortage of human and economic resources are factors impeding the implementation of some provisions of the Convention.

11. The Committee notes the challenges posed by the State party's aspirations to maintain its unique culture and identity amidst increasing development and openness, as well as within the regional context.

D. Principal subjects of concern and recommendations

1. General measures of implementation

Legislation

12. While noting various legislative measures already taken or proposed with respect to child rights (e.g. amendments to the 1980 Marriage Act, the 1993 Rape Act, the draft Juvenile Justice Act, draft Civil and Criminal Codes, and the draft Immoral Trafficking Act), the Committee is concerned that they do not reflect a comprehensive rights-based approach to the implementation of the Convention.

13. **The Committee recommends that the State party:**

(a) Ensure the speedy promulgation of legislation relating to child rights;

(b) Undertake a comprehensive review of existing legislation, from a rights-based approach, to ensure its conformity with the principles and provisions of the Convention; and

(c) Consider adopting a comprehensive children's code which would incorporate the principles and provisions of the Convention.

Coordination

14. The Committee welcomes the information that the Government is planning to review the implementation structure for the Convention, particularly the strengthening of the role of the CRC Task Force. However, it is concerned that the CRC Task Force is not yet operational.

15. **The Committee recommends that the State party:**

(a) Pursue the preparation and development of a comprehensive national plan of action for the implementation of the Convention, through an open, consultative and participatory process;

(b) Ensure that the CRC Task Force is responsible for intersectoral coordination and cooperation (at and between national and local levels of government), dissemination and training of the Convention, coordination of NGO activities in the implementation of the Convention, as well as coordination in the preparation of the State party's reports; and

(c) Ensure that the CRC Task Force is adequately resourced (e.g. financially and professionally).

Cooperation with civil society

16. Noting good governmental cooperation in the development and welfare sectors with national associations, bilateral aid agencies, international organizations and NGOs, the Committee is nevertheless concerned that insufficient efforts have been made to involve civil society, particularly in the area of civil rights and freedoms, in the implementation of the Convention.

17. **The Committee recommends that the State party:**

(a) Consider a systematic approach to involving civil society, especially children's associations, throughout all stages of the implementation of the Convention, including with respect to civil rights and freedoms; and

(b) Ensure that legislation regulating NGOs conforms to international standards on freedom of association, as a step in facilitating and strengthening their participation.

Data collection

18. The Committee is concerned that disaggregated data on persons under 18 years relating to the rights contained in the Convention are not systematically collected and used effectively to assess progress and design policies to implement the Convention.

19. **The Committee recommends that the State party:**

(a) Establish a mechanism to systematically collect and analyse disaggregated data on all persons under 18 years for all areas covered by the Convention, including members of the most vulnerable groups (i.e. children of different ethnicity, living in remote areas, with disabilities, of economically disadvantaged households, etc.); and

(b) Seek technical assistance from, among others, UNICEF.

Monitoring structures

20. The Committee is concerned at the lack of an independent mechanism with a mandate to regularly monitor and evaluate progress in the implementation of the Convention and empowered to receive and address complaints.

21. **The Committee recommends that the State party:**

(a) Consider the establishment of an independent national human rights institution, in accordance with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134), to monitor and evaluate progress in the implementation of the Convention at the national and at the local levels. This institution should be accessible to children and empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner and to address them effectively; and

(b) Seek technical assistance from, among others, the OHCHR, UNICEF and the European Network of Ombudspersons for Children.

Budgetary allocation

22. While noting significant investment and increased budgetary allocation in the social sector, the Committee is still concerned that insufficient attention has been paid to article 4 of the Convention regarding the implementation to the "maximum extent of ... available resources" of the economic, social and cultural rights of children.

23. **The Committee recommends that the State party:**

(a) Systematically assess the impact of budgetary allocations on the implementation of child rights;

(b) Ensure that multi-sectoral programmes are adequately funded;

(c) Ensure the distribution - to the maximum extent - of available resources at the national and local level, and, where needed, within the framework of international cooperation; and

(d) Consider its obligations under the Convention in all aspects of its negotiations with international financial institutions and other donors, to ensure that the economic, social and cultural rights of children, particularly children belonging to the most vulnerable groups, are well observed.

Training/dissemination of the Convention

24. Noting some efforts by the State party (e.g. radio programmes), the Committee is concerned that awareness of the Convention amongst professionals working with and for children and the general public, including children themselves, remains low. The Committee is concerned that the State party is not undertaking adequate dissemination and awareness raising activities in a systematic and targeted manner.

25. **The Committee recommends that the State party:**

(a) Develop an ongoing programme for the dissemination of information on the Convention and its implementation among children and parents, civil society and all sectors and levels of government, including initiatives to reach those vulnerable groups who are illiterate or without formal education;

(b) Develop systematic and ongoing human rights training programmes for all professional groups working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers, health personnel); and

(c) Seek assistance from, among others, OHCHR and UNICEF.

2. Definition of the child

26. The Committee notes that the 1996 amendment to the Marriage Act of 1980 raised the age of marriage of girls to 18. It further notes information from the delegation that courts generally interpret the law to include persons under 18 as children for all purposes.

27. **The Committee recommends that the State party review its legislation with a view to ensuring that the definition of the child and minimum age requirements conform to the principles and provisions of the Convention, are gender neutral, are explicit and are enforced by law.**

3. General principles

The right to non-discrimination

28. The Committee is concerned at the disparities in the enjoyment of rights experienced by children belonging to the most vulnerable groups (e.g. children living in remote areas, belonging to other ethnic groups, with disabilities from economically disadvantaged households, etc.).

29. **The Committee recommends that the State party:**

(a) Make greater efforts to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2; and

(b) Prioritize and target social services for children belonging to the most vulnerable groups.

30. The Committee is concerned about the impact on children of reports of discrimination against individuals belonging to the Lhotshampas. In particular, it is concerned about reports: that these children face de facto discrimination in access to education and other services and on the basis of status, activities, or opinions of their parents, or relatives.

31. **The Committee recommends that the State party:**

(a) Take effective measures, including enacting or rescinding legislation where necessary, to prevent and eliminate discrimination, in accordance with article 2 of the Convention, in all fields of civil, economic, political, social and cultural life;

(b) Establish accessible, prompt and effective mechanisms to monitor, receive and address complaints of discrimination (e.g. prompt appeal in circumstances of denial of school enrolment); and

(c) Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes towards different ethnic groups.

Respect for the views of the child

32. The Committee notes the State party's efforts to respect the views of children in schools (e.g. the 1997 school code of conduct). Nevertheless, it is concerned that traditional attitudes towards children in society at large may limit the exercise of this right, especially within the family.

33. **The Committee recommends that the State party:**

(a) Continue to promote and facilitate, within the family, the school, the courts and administrative bodies, respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention;

(b) Develop skills-training programmes in community settings for teachers, social workers and local officials at the village-block level to assist children to express their informed views and opinions and to have them taken into consideration; and

(c) Seek assistance from, among others, UNICEF.

4. Civil rights and freedoms

Birth registration

34. Noting the difficulties imposed by terrain and settlement patterns, the Committee is concerned that the failure of timely birth registration can have negative consequences on the full enjoyment by children of their fundamental rights and freedoms.

35. **The Committee recommends that the State party:**

(a) Make greater efforts to ensure the timely registration of all births, and issue birth certificates;

(b) Carry out awareness-raising about registration in rural areas; and

(c) Consider the establishment of mobile registration offices and registration units in schools.

Nationality

36. The Committee is concerned that under citizenship laws, a child of a Bhutanese mother and a non-national father must face a burdensome naturalization process, whereas this is not required if the father is Bhutanese.

37. **The Committee recommends that the State party ensure the right of a child to a nationality without discrimination on the basis of the gender of the parent(s), in accordance with articles 2 and 7 of the Convention.**

5. Family environment and alternative care

Family reunification

38. The Committee is concerned that as a result of events following the census in the late 1980s, there may be children in southern Bhutan who are separated from their parents, or whose parents are residing abroad as refugees.

39. **The Committee recommends that the State party ensure that family reunification is dealt with in a positive, humane and expeditious manner, in accordance with article 10 of the Convention.**

Violence/abuse/neglect/maltreatment

40. Noting the respect for children in Bhutan, the Committee is concerned that there is insufficient information and awareness of the ill-treatment of children in schools and within the family.

41. **The Committee recommends that the State party:**

(a) Conduct a study to assess the nature and extent of ill-treatment of children, and design policies and programmes to address it;

(b) Take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, schools, and in institutions;

(c) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(d) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervention where necessary;

(e) Prosecute instances of ill-treatment, ensuring that the abused child is not victimized in legal proceedings;

(f) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of ill-treatment cases; and

(g) Seek assistance from, among others, UNICEF and WHO.

6. Basic health and welfare

Right to health and healthcare

42. The Committee notes significant achievements in the health sector: improvements in health indicators; increased investment; the inclusion of health education in the school curricula; and the establishment of basic health units, outreach clinics and health volunteer programmes. However, it is concerned about problems of access to services and the shortage of trained health workers.

43. **The Committee recommends that the State party:**

(a) Make greater efforts to ensure access to health services; and

(b) Continue to allocate the required resources to address the shortage of trained health workers.

44. Noting the State party's efforts to address adolescent health, such as the publication of pamphlets on reproductive and mental health, and drug abuse, the Committee is concerned at the effectiveness of these efforts.

45. **The Committee recommends that the State party:**

(a) Ensure that adolescents have access to and are provided with education on reproductive health and other adolescent health issues, as well as with child-sensitive and confidential counselling services;

(b) Strengthen its efforts to provide adolescent health education within the educational system; and

(c) Seek assistance from, among others, UNICEF and WHO.

Children with disabilities

46. Noting some efforts by the State party concerning children with disabilities (i.e. the pilot school for inclusive education and formation of a parents support group in Thimpu, and a school for visually impaired children), the Committee is concerned that children with disabilities in general have inadequate access to specialized services and education, and there is insufficient support for families.

47. **The Committee recommends that the State party:**

(a) Conduct a survey to assess the causes and extent of disability among children;

(b) Review existing policies and practice in relation to children with disabilities, taking due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted at its day of general discussion on "Children with disabilities" (see CRC/C/69);

(c) Involve children with disabilities and their families in the development of surveys and policy review;

(d) Undertake greater efforts to make available the necessary resources (e.g. professional and financial, including professional and financial support to families);

(e) Undertake greater efforts to promote and expand community-based rehabilitation programmes, including parent support groups, and inclusive education of children with all forms of disability; and

(f) Seek assistance from, among others, UNICEF and WHO.

7. Education, leisure and cultural activities

Education

48. Noting significant achievements in education indicators, the Committee is concerned that primary education is not compulsory; that there is still a significant gender gap in enrolment; and that there are deficiencies in access to education and the quality of teacher training.

49. **The Committee recommends that the State party:**

(a) Ensure that primary education is free and made compulsory;

(b) Make greater efforts to close the gender gap; and

(c) Allocate the required resources to address access to education and the quality of teacher training.

50. Noting with appreciation that the aims of education are generally in conformity with article 29 of the Convention, the Committee is concerned that human rights education, including the Convention, is not included in the school curricula.

51. **Taking due regard of its General Comment No. 1 on the aims of education, the Committee recommends that the State party:**

(a) Include human rights education in the curricula, particularly with respect to the development and respect for human rights, tolerance, and equality of the sexes and of religious and ethnic minorities; and

(b) Seek assistance from UNICEF and UNESCO.

8. Special measures of protection

Refugees

52. While noting that the verification process of refugees in camps in Nepal has commenced, the Committee is nevertheless concerned at the slow rate of this process and the serious and negative impact this has on the rights of children residing in these camps, particularly given that repatriation will begin only once all refugees have been verified.

53. **In accordance with the principles of the best interests of the child, the right to a nationality and to the preservation of identity (articles 3, 7 and 8 of the Convention), and with a view to reaching a just and durable solution to the situation of refugees in camps in Nepal, the Committee recommends that the State party:**

(a) Make greater efforts to expedite the verification process and consider the possibility of repatriating individuals within a reasonable time following individual verification;

(b) Consider a mechanism to allow individuals to appeal against decisions;

(c) Ensure that returnees are repatriated and resettled, in safety and dignity, to their place of origin or choice;

(d) Consider acceding to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the conventions on statelessness; and

(e) In the best interests of the children, consider seeking assistance from UNHCR.

Armed conflict

54. The Committee is concerned at the low age of 15 for voluntary enlistment in the armed forces.

55. **The Committee recommends that the State party consider raising this to 18.**

56. The Committee expresses its concern at the negative impact on children of reported armed insurgency in the south-central and south-eastern parts of the country.

57. **In light of article 38 and other relevant articles of the Convention, the Committee recommends that the State party:**

(a) At all time, ensure respect for human rights and humanitarian law aimed at the protection and care of children affected by armed conflict; and

(b) Provide physical rehabilitation and psychological recovery measures for these children.

Child labour

58. The Committee is concerned at the absence of legislation on the minimum age for admission to employment, as well as insufficient information on children working, including in the informal sector, such as agriculture. It is concerned that an increasing number of children are dropping out of school and taking up work in urban areas (e.g. as waiters, as bus attendants, in vehicle workshops, or as domestic workers).

59. **The Committee recommends that the State party:**

(a) Undertake a national survey on the causes and extent of child labour;

(b) Establish a minimum age for admission to employment, in accordance with the principles and provisions of the Convention, that is in conformity with the age of completion of education, and ensure that it is enforced; employers should be required to have, and to produce on demand, proof of age of all children working on their premises.

(c) Establish a mechanism to monitor the implementation of standards which is empowered to receive and address complaints of violations;

(d) Carry out campaigns to inform and sensitize the general public, especially parents and children, of work hazards; and

(e) Consider membership in ILO.

Sexual exploitation

60. Noting the 1993 Rape Act and the draft Immoral Trafficking Act, the Committee is concerned at the insufficient data on and awareness of the phenomenon of sexual exploitation of children in Bhutan.

61. **The Committee recommends that the State party:**

(a) Undertake a national study on the nature and extent of sexual exploitation of children (i.e. sale of children, child prostitution and child pornography), and compile and keep up to date disaggregated data to serve as a basis for designing measures and evaluating progress in this area;

(b) Review its legislation and ensure that it criminalizes the sexual exploitation of children, is gender neutral and penalizes all offenders involved, whether local or foreign, while ensuring that the child victims are not penalized;

(c) Ensure that legal procedures are simplified so that responses are appropriate, timely, and sensitive to victims;

(d) Establish rehabilitation and social reintegration programmes for child victims;

(e) Train personnel working with child victims; and

(f) Carry out awareness-raising campaigns to sensitize and mobilize the general public on the child's right to physical and mental integrity and safety from sexual exploitation.

Administration of juvenile justice

62. While noting the establishment of the Youth Development and Rehabilitation Centre, the Committee is nevertheless concerned at the administration of juvenile justice. In particular, it notes the absence of information on the minimum age of criminal responsibility. The Committee is also concerned that insufficient efforts have been made to ensure the speedy adoption of the draft juvenile justice and criminal procedure legislation.

63. **The Committee recommends that the State party:**

(a) Establish a minimum age of criminal responsibility that is in accordance with the principles and provisions of the Convention;

(b) Expedite the promulgation of the draft juvenile justice and criminal procedure laws;

(c) Ensure that the system of juvenile justice fully integrates into its legislation and practice the provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System;

(d) Ensure that the deprivation of liberty is used only as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults;

(e) Ensure that children have access to legal aid and independent and effective complaints mechanisms;

(f) Consider alternative measures to deprivation of liberty, such as probation, community service, or suspended sentences;

(g) Train professionals in the area of rehabilitation and social reintegration of children;

(h) Seek assistance from, among others, OHCHR, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

9. Optional Protocols

64. **The Committee encourages the State party to ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.**

10. Dissemination of documentation

65. **Finally, the Committee recommends that in accordance with article 44, paragraph 6, of the Convention, the initial report presented by the State party be made widely available to the public at large and that consideration be given to the publication of the report along with the written answers to the list of issues raised by the Committee, the relevant summary records of the discussion, and the concluding observations adopted by the Committee following its consideration of the report. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.**

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